

General Terms and Conditions ArtikelPro

1. DEFINITIONS

In these General Terms and Conditions, the following words written with a capital letter have the meanings indicated:

"General Terms and Conditions"	the present general terms and conditions of ArtikelPro;
"Agreement"	the agreement that ArtikelPro enters into (partly) on behalf of the Publishers with MMO concerning access to the Database and purchase of Content, including its annexes;
"Aggregator site"	A website that aggregates Content from other websites and makes it publicly available through its own website through linking (for example, Google News);
"Article"	Each separate article from one of the Titles, which ArtikelPro makes available through the Database, including the accompanying image;
"Article link"	the link provided by ArtikelPro for access to an Article within the Database. The Article link is linked to the End User's account;
"ArtikelPro"	ArtikelPro B.V., having its registered office in Almere and principal place of business at Randstad 21-30, 1314 BM in Almere, registered in the trade register of the Chamber of Commerce under number 81214820;
"Backsearch"	The search on behalf of an End Customer of Content originated before the start date of the Content Contract.
"Content"	The collection of Articles from print, online sources and social media channels, which includes Facebook, Instagram, Twitter and YouTube, of affiliated publishers as licensed by ArtikelPro and available in the Database;
"Content Contract"	The order made via the Portal that the MMO purchases from ArtikelPro for each End Customer. This stipulates the duration, number of End Users, number of Articles in the Tier and any automatic renewal;
"Database"	ArtikelPro's online content database, in which the Content is made available to the MMOs in standardized formats via the Portal;
"End Customer"	the Customer of the MMO who purchases certain Content, subject to the limitations referred to in article 5.3.
"End User Agreement"	the agreement that ArtikelPro enters into (partly) with End Customers, on behalf of the Publishers, concerning the use of the Content by End Users, which is made available to them via the MMO;

"End Users"	those who are employed by or on behalf of the End Customer and have access to an Article via an Article link supplied by ArtikelPro through MMO;
"Intermediary"	A facilitating party between MMO and End Customer who has signed an ArtikelPro Content Processing Agreement. When talking about MMO, this also means Intermediary unless explicitly stated otherwise;
"MMO"	the Media Monitoring Organisation that purchases content from ArtikelPro as part of its services to its End Customers;
"Portal"	the online environment of ArtikelPro in which the MMO can create End Users, enter Content Contracts and handle all other matters himself. Access to the Database is arranged via the Portal;
"Snippet"	an introduction of an Article created by ArtikelPro, consisting of the Title + the first 150 characters of an Article, an Article link, and possibly associated metadata, such as the Title's name, page of the Article, and so on;
"Rate"	the fee that the MMO owes to ArtikelPro for access to the Portal and purchase of Content;
"Territory."	the Territory in which the Content may be used, by default the Territory is worldwide unless otherwise stated on a source level.
"Tier"	a group of Titles priced according to type including but not limited to newspapers publishers, magazine publishers (B2C) and trade journal publishers (B2B)
"Title"	the (digital and/or print) Title from which an Article is made available by ArtikelPro via the Database originates;
"Publisher"	the publisher of one or more Title(s) that makes Content available through ArtikelPro, as included in the Agreement.

2. APPLICABILITY AND MODIFICATION

- 2.1. These General Terms and Conditions apply to every Agreement and every use of Content by MMOs. Any (general) conditions of the MMO are explicitly not applicable.
- 2.2. Any deviations or additions to the Agreement are only valid if they are explicitly confirmed in writing by ArtikelPro.
- 2.3. In the event of any conflict between these General Terms and Conditions and the Agreement, the provisions of the Agreement shall prevail.
- 2.4. ArtikelPro is entitled to change these General Terms and Conditions unilaterally, subject to written notice and the option for MMO to opt out. ArtikelPro shall inform the MMO in advance in writing within three (3) months of such a change and provide an opportunity for the MMO to object to the proposed changes. If the MMO does not object to the proposed changes within the specified period, the altered General Terms and Conditions shall be deemed accepted. However, if the MMO does not agree with the proposed changes, they may opt out of the Agreement and the existing General Terms and Conditions will continue to apply to the MMO until the end of the agreed-upon term or 12 months, whichever is longer.
- 2.5. If the General Terms and Conditions for End Customers are changed, MMO will, after being notified, inform the End Customers within (3) months. If this article is not complied with, MMO will be liable for any damages suffered by ArtikelPro on behalf of Publishers.. Changes will take effect upon the effective date of new Content Contracts or upon renewal of existing Content Contracts.

3. PORTAL ACCESS

- 3.1. For access to the Portal, ArtikelPro provides the MMO with his own login account. Content will be delivered to MMO via an API (Application Programming Interface).
- 3.2. MMO is not permitted to give third parties (other than its own employees) access to the Portal, including End Users and End Customers.
- 3.3. MMO is fully responsible and liable for all use of his login details and for all actions carried out through his login account.
- 3.4. ArtikelPro reserves the right to (temporarily) block or limit access to an account for repeated violations of the General Terms and Conditions.

4. END CUSTOMER, END USERS AND CONTENT CONTRACT

- 4.1. Every End User must be registered in the Portal. In addition to the relevant details, an End User Agreement duly signed by the End Customer must be uploaded.
- 4.2. For each End Customer, the number of End Users and the number of Articles within each Tier are determined before the Content Contract commences.
- 4.3. When MMO sends a newsletter, newspaper clipping or any other form of distribution, sharing or forwarding, each recipient counts as an End User. If the Article link is made available via an intranet, at least 10% of the number of users with access to the intranet must be counted as Users. Employees of the MMO are not considered as End Users. Employees of the Intermediary who have access to the Content will count toward the number of End Users.

- 4.4. A Content Contract will be automatically renewed for the same period and on the same basis, unless prior to the end of the Content Contract's term it has been indicated via the Portal that it should not be automatically renewed.
- 4.5. By entering the Content Contract data and clicking on "agree" in the Portal, MMO enters into a legally valid commitment to provide Content to End Customer via the Portal. MMO is responsible for complying with the General Terms and Conditions of this Agreement and, MMO is responsible for the financial obligations under the Content Contract.
- 4.6. Interim upward adjustment of the agreed numbers of Articles and End Users is possible at all times. On the basis of the new data, the rate will be recalculated, and the monthly fee will be adjusted on the next invoice.
- 4.7. Decreasing the agreed number of Articles and End Users is only possible if the Content Contract has a term of 12 months or more. It is then possible to adjust in months 3 and 9 of any given Content Contract year. The new rate will be determined based on the adjustment and settlement will take place on the next invoice. Contrary to what is stated in Article 5.5, in the event of a negative adjustment at the end of the Content Contract, an immediate levy will be made if it appears that the actual number of purchased Articles and/or End Users is higher than stated. The 10% margin will then lapse. It is not allowed to remove Tiers from the Content Contract.
- 4.8. Upon termination of a Content Contract and/or End User Agreement, the relevant End Customer shall no longer have access to the Database. MMO, Intermediary and End Customer must then remove all Content received for that End Customer from their systems without keeping copies or transcripts thereof and cease any use of the Content.

5. USE OF CONTENT

- 5.1. Within his account, MMO will create a sub-account for each End Customer, which will allow the purchase of Articles for that End Customer to be registered by ArtikelPro. MMO must always provide correct and full information about the type of End Customer and the number of End Users, in order to allow ArtikelPro to check whether the End Customer complies with the conditions set out in Article 4. MMO can only make use of Content on behalf of an End Customer after the relevant End Customer has concluded an End Customer Agreement with ArtikelPro.
- 5.2. MMO shall only be entitled to use Articles for that End Customer for which the Articles were received.
- 5.3. MMO is expressly not permitted to make complete Articles available to Intermediary, End Customers and End Users. MMO is only entitled to store the Snippets, Article Links and meta data. Intermediary and End Customer are not entitled to store these Snippets and Article Links, this excludes the newsletters received by End Users from the End Customer. For the purpose of automated analysis or data extraction applications, MMO may store the full text of an Article in its own systems for the aforementioned purpose up to 24 hours after first receiving that Article. After the expiration of this 24-hour period, except as permitted by section 5.4, the full text must be permanently deleted from MMO's own systems or Cloud systems.
- 5.4. Indexing of the full text of the Content is permitted for End Customer search queries within the Content selection received for that End Customer.
- 5.5. MMO is only permitted to use Content to the benefit of End Customers that fall within the category of End Customers located in the Territory. ArtikelPro and Publishers reserve the right to exclude certain End Customers from delivery, provided that such exclusions are based on legal or reasonable grounds and will provide advance notice to the MMO of any such exclusions. Upon receipt of such notice, subject to a commercially reasonable period of time required to adjust its systems, the MMO is no longer permitted to use the Content for the benefit of the excluded End Customer(s).) If the reduction of use within the Tier due to the prohibition of use exceeds 10%, the Content Contract for the relevant Tier will be adjusted. This adjustment will not count as an adjustment as set out in Article 4.7.
- 5.6. MMO is not permitted to obtain, use, store in a database or make available to its End Customers the Content of Publishers represented by ArtikelPro in any form or capacity through other parties or in any way other than through ArtikelPro or another party authorized by the Publisher. References on Aggregator Sites with (part of) the text of the Content are also included here, as long as this Content is not lawfully obtained. The results of (online) search engines are also included here. References to comments on social media are allowed as long as this is not a way to obtain full-text Articles through other means. Content on Aggregator Sites may only be used as a reference to the Aggregator Site and not as reference to the source of the Article. Content of Publishers represented by ArtikelPro through their own website or other (online) publications owned by Publishers may be obtained for analysis, monitoring and services derived therefrom exclusively through ArtikelPro. Any other method of obtaining the Content for these purposes is not permitted and is considered a breach of the agreement between MMO and ArtikelPro. The same applies to content that would be obtained through regular subscriptions with Publishers.

- 5.7. Article 5.6 and 12.2 shall cease to apply to MMO for Content for which MMO has an agreement with the rights holders of that Content for the commercial use of such Content from that publisher. If MMO uses unlicensed Content from Publishers represented by ArtikelPro then the rights holder will expressly reserve their rights and MMO is responsible for the consequences resulting from the infringement and for any claims and damages.
- 5.8. All Items received via the API (Application Programming Interface) by the MMO count towards the end use for which billing is made.
- 5.9. Content purchased for an End Customer may not (also) be used for other End Customers. For this purpose, the Content must be purchased separately under the subaccount of the relevant End Customer.
- 5.10. All rights not mentioned by name, remain at all times reserved to the respective Publisher and this license will in case of disputes always be interpreted restrictively and in favor of the respective Publisher. MMO acknowledges in this regard that all content made public by the Publishers in any way, whether in return for payment or free of charge, is subject to copyright and any other rights and that MMO, End Customer and End Users are therefore not permitted to reproduce, make public or otherwise use such content without the permission of the rights holder.
- 5.11. MMO shall take reasonable steps to ensure that its use of the Content does not in any way infringe upon the moral rights, honour, or reputation of ArtikelPro, the Publisher, or the authors of the Content. This includes taking reasonable steps to attribute the Content to its rightful author and to refrain from any use of the Content that could be considered derogatory or damaging to the reputation or integrity of the author or the Content itself. In the event that any such use is identified, MMO shall promptly cease such use and take any additional steps that may be necessary to mitigate or remedy any harm caused to the rights holders or the Content. The MMO is expressly not permitted to make any changes to the Content.
- 5.12. ArtikelPro and Publishers reserve the right to change or recall Articles and part of the Content at their own discretion, including the right to no longer make certain Content available with notice to MMO. MMO will remove Articles specifically designated by e-mail by ArtikelPro or the Publisher, oblige the End Customers and their End Users to remove the relevant Content and cease any use of the relevant Articles. ArtikelPro and Publishers shall not be held liable for any consequences arising from such changes or recalls.
- 5.13. In the event that there is a material change to the Content or the availability of the Content, such as the removal of a significant portion of the Content or the cessation of access to the Content, the MMO may be entitled to adjust Content Contracts accordingly.
- 5.14. Without prior written approval of ArtikelPro MMO is not allowed to load Content in any form into third party systems, including but not limited to Artificial Intelligence (AI) tools like OpenAI and cloud based data analytic tools.

6. RATES AND PAYMENT

- 6.1. All rates stated are in euros and exclusive of VAT, unless otherwise stated or agreed in writing.
- 6.2. The MMO must pay the applicable Rate based on the total number of pre-agreed Articles and End Users. In the Portal, the MMO must state the expected number of Articles and End Users to be purchased for each End User by means of the Content Contract. The Rate will be based on the Content Contract.
- 6.3. If, after the end of a Content Contract, it appears that the number of Articles and/or End Users utilised exceeds MMO's statement as referred to in Article 4 by more than ten per cent (10%), the Tariff will be reset retroactively based on the actual number of Articles utilized and the number of End Users and ArtikelPro will invoice the difference to MMO within thirty (30) days after the end of the Content Contract. If fewer Articles were purchased and/or there were fewer End Users than specified, no refund to MMO will take place. ArtikelPro's systems are leading in determining the number of purchased Articles and End Users.
- 6.4. In case of differences between what ArtikelPro states and what MMO records in its systems, this will be addressed and resolved through mutual efforts. Both parties will endeavor to resolve the difference.
- 6.5. The Tariff consists of a part due to the respective Publisher for the use of the Content and a part due to ArtikelPro for access to the Portal. ArtikelPro shall invoice the full Tariff (also on behalf of the Publishers).
- 6.6. The Rate for Backsearch assignments can be requested through the Portal and is in accordance with the usual rates of the Tiers
- 6.7. ArtikelPro and Publishers expressly reserve the right to change the Rates. ArtikelPro will inform MMO three (3) months in advance in writing (including by e-mail and through the Database) of such a change ("Notice Date"). From the date on which the alteration becomes effective ("Effective Date"), the altered Rates are also applicable to all existing Agreements. If the price change exceeds the CBS Price Index figures CPI the changed Rates may only be amended once per annum and will only apply to renewals of the Agreements and new Agreements concluded after the Effective Date.
- 6.8. Invoicing takes place at the end of each month. The term of payment is thirty (30) calendar days after the production of a valid invoice.
- 6.9. In case the full amount due is not paid within the payment term, MMO is legally in default and is due the legal interest on the outstanding amount from the due date. If an invoice is reasonably disputed by MMO, the foregoing shall not apply.
- 6.10. All (extra)judicial costs involved in the collection of the amount due will be borne by MMO, whereby the extrajudicial costs will be set at a minimum of fifteen per cent (15%) of the principal owed, plus interest.
- 6.11. If MMO is in default with the payments ArtikelPro reserves the right to block access to the Portal and/or Content until all outstanding amounts are fully paid.
- 6.12. To avoid any doubt, the payment obligations arising from the Agreement will at all times rest with MMO and not with End Customer.

7. AUDIT

- 7.1. On request of ArtikelPro, MMO will provide a signed report confirming MMO's compliance with the terms of this Agreement.
- 7.2. ArtikelPro has the right to audit the MMO conducted by an independent auditor when ArtikelPro has, and documents to MMO in writing, reasonable indications of a breach of this Agreement. MMO declares to fully cooperate, including the provision of all necessary information requested by ArtikelPro in connection with this audit. ArtikelPro shall be entitled to make the data and results of any audit available to the Publisher to the extent that they relate to the Content of that particular Publisher.
- 7.3. MMO is obliged to pay all costs made by ArtikelPro in connection with the audit if it is established during the inspection that MMO has acted in material breach of the Agreement. If an audit unveils that MMO acted in material breach of this Agreement, MMO has 5 (five) working days to comply with the Agreement ("Cure Period"). MMO is obliged to pay all damages caused by the infringement. In addition, MMO has to pay a fee of two thousand Euros (€ 2.000) for each day the material breach continues to exist after the Cure Period. If the audit does not reveal a material breach by MMO, the full cost of the audit, will be paid by ArtikelPro,

8. TERM AND TERMINATION

- 8.1. Unless otherwise agreed, the Agreement is for an indefinite term. Each party is entitled to terminate the Agreement at any time with a twelve (12) month notice period.
- 8.2. Either party has the right to terminate the Agreement in writing with immediate effect if:
 - a) Another party has ceased to exist or has been dissolved;
 - b) Another party (i) has been declared bankrupt, (ii) has been granted a moratorium, whether provisional or not, or (iii) has lost all or part of its free disposal or management of its assets.
- 8.3. If one of the Publishers is in a situation of (a) or (b), the termination will only apply to the Publisher in question and the Agreement between the other parties will remain in force.
- 8.4. When the Agreement ends, for whatever reason, the MMO will no longer have access to the Database and the license granted in the Agreement will expire immediately. MMO must immediately remove all Content from its systems without keeping copies or transcripts and cease any use of the Content. Similarly, ArtikelPro and Publishers will also immediately remove all records related to the Agreement, MMO, End Customers, End User and any information stored in the Portal from their systems except as required by law.
- 8.5. In all cases in which the Agreement ends, it shall continue to govern the legal relationship between the parties insofar as is necessary for the settlement thereof. Obligations which by their nature are intended to continue after termination will continue after termination or non-continuation of the Agreement. At the termination of the contract with the MMO, the MMO will deny all End Users and individual End Users access to the Database of ArtikelPro.

9. LIABILITY

- 9.1. ArtikelPro makes every effort to ensure that the Database and the Content are available. MMO accepts however that delays or faults in the availability of the Database and the Content cannot be completely excluded. ArtikelPro should immediately inform MMO of any issues in the availability of the Database and the Content. ArtikelPro is therefore not liable for damages suffered by MMOs and End Customers/End Users or delays or failures in the availability of the Database and/or the Content. If the number of Articles available within a Tier decreases by more than fifteen per cent (15% due to the loss of Content for whatever reason, including the discontinuation of a Publisher and/or Title or the non-delivery of Content by Publisher(s), MMO may adjust the Content Contract for the Tier in question. This adjustment will not count as an adjustment as stated in Article 4.7.
- 9.2. ArtikelPro has no influence on the Content. ArtikelPro is therefore not responsible for the accuracy, completeness or legality of the Content. It is not liable in this respect.
- 9.3. Any liability of ArtikelPro and Publishers is always limited to a maximum of the amount owed by MMO in the previous six (6) months to ArtikelPro in connection with the delivery of Content to the relevant End Customer. Liability of ArtikelPro and Publishers for consequential or indirect damages including, but not limited to, loss of turnover and/or profit, reputational damage, immaterial damage and missed savings, is excluded.
- 9.4. The exclusions and limitations stated in this article do not apply if the damage is the result of intent or gross negligence.
- 9.5. MMO is responsible for the use of the Content by the Intermediary to the same extent as if the Intermediary were the End Customer.

10. INDEMNITY

- 10.1. ArtikelPro indemnifies MMO from all copyright claims arising from the use of the Content if MMO complies with the Agreement and under the condition that MMO:
- 10.1.1. Notifies ArtikelPro as soon as reasonably possible in writing of the existence and content of such a claim;
 - 10.1.2. leaves the handling of the claim, including entering into any obligations towards the entitled party, entirely to ArtikelPro; and
 - 10.1.3. provides all reasonably necessary cooperation to ArtikelPro for the settlement of the claim.
- 10.2. If MMO does not immediately comply with a request from ArtikelPro in accordance with article 9.5 of these General Terms and Conditions, then the indemnification as referred to in article 10.1 does not apply to the concerning Content.

11. CONFIDENTIALITY

- 11.1. Parties shall not disclose any information to third parties without the prior written consent of the other Party, and shall only make it available to their technical employees and/or third parties directly engaged by them on a strictly need-to-know basis and subject to appropriate confidentiality obligations.
- 11.2. Parties shall not disclose any information to third parties without the prior written consent of the other Party, and shall only make it available to their technical employees and/or third parties directly engaged by them on a strictly need-to-know basis and subject to appropriate confidentiality obligations.
- 11.3. ArtikelPro shall be entitled to share the information it obtains in the context of the Agreement with the Publishers it represents, provided that such information is kept in strict confidence and is only made available to the Publishers on a strictly need-to-know basis and subject to appropriate confidentiality obligations. The Parties shall ensure that their respective employees and third-party service providers comply with these confidentiality obligations.
- 11.4. Article 11.1 does not apply in respect of:
 - 11.4.1. if and to the extent that disclosure is required by applicable law or rules of any governmental authority, but in such case, only after consultation, to the extent possible, with the other Party regarding the timing and content of the disclosure;
 - 11.4.2. if and to the extent that the information has become publicly available other than through unauthorized disclosure by the receiving party.

12. MISCELLANEOUS

- 12.1. MMO acknowledges that ArtikelPro is entering into the Agreement on behalf of the Publishers and that each Publisher can therefore directly enforce the Agreement on behalf of MMO or End Customer / End User.
- 12.2. MMO acknowledges that the Publishers and Titles listed on the domain artikelpro.eu, are subject to potential changes. In the event of any change, Artikelpro will deliver written notification to MMO, providing a detailed description of the change requested per each publisher(s) or Title(s) including the name of the Publisher, Title name and applicable URL. This notification will be sent in writing (by e-mail) to the address specified in the MMO Content Agreement no later than one month prior to the effective date of the aforementioned change(s). Subsequently, upon their implementation, the changes shall be deemed an integral part of the Agreement. Per effective date MMO adhere to the changes as mentioned. In the case new Titles are added MMO will per effective date no longer purchase, crawl or by any other means collect Content of that Title other than through ArtikelPro.
- 12.3. If any provision of the Agreement is void or voided, the other provisions will remain in full force. The void or voided provision will be replaced by a legally admissible provision that matches the intention of the void or voided provision as closely as possible.
- 12.4. MMO will make clear in all its communications that the Content is purchased through ArtikelPro and that it only has a non-exclusive, non-transferable, and non-sublicensable right.
- 12.5. MMO will not use the ArtikelPro content in any way whatsoever for which MMO has not obtained the rights from the original rightful claimants in so far as these rights are actively exercised by the rightful claimants.
- 12.6. The MMO may only supply Content to another MMO if the latter MMO has an agreement with ArtikelPro.
- 12.7. The Intermediary may only supply Content to another MMO if the latter MMO has an agreement with ArtikelPro.

- 12.8. If Content is delivered to another MMO this should be stated at the start of a Content Contract.
- 12.9. The Agreement is governed by Dutch law.
- 12.10. Any disputes arising from the Agreement will be exclusively submitted to the competent court in Amsterdam.

13. Data Protection

- 13.1. "Data protection laws" means all applicable privacy and data protection laws, regulations, orders and other legal requirements. The terms "personal data" and "processing" will have the meanings ascribed to them in the data protection laws, and where the term 'personal information' is used, it will be read as personal data.
- 13.2. If and to the extent that the parties provide personal data to each other, the parties acknowledge that such information will be processed in accordance with the data protection laws.

14. Force Majeure

- 14.1. Both Parties shall use all reasonable efforts to minimize the consequences of force majeure. Where force majeure remains in effect for more than thirty (30) days or if, at the beginning of a force majeure condition it is clear that it will last longer than thirty (30) days, either Party shall have the right to terminate the Agreement effective immediately upon the giving of such notice to the other Party or such later date as the terminating Party may specify in such notice.
- 14.2. For purposes of this Agreement, the term "force majeure" shall include strike, lockout, earthquake, hurricane, flood, fire, or other acts of God or nature, war, rebellion, civil disorders, laws, regulations, acts of civil or military authorities (including the denial or cancellation of any export or other necessary license), unavailability of materials, carriers or communications facilities, and any other causes beyond the reasonable control of the Party whose performance is affected.
- 14.3. ArtikelPro is neither identified on, nor shall it provide access to MMO information to any individuals or entities identified on, (1) OFAC's list of Specially Designated Nationals ("SDN List"), (2) the UK's HM Treasury's Consolidated List of Sanctions Targets, (3) the EU's Consolidated List of Persons, Groups, and Entities Subject to EU Financial Sanctions, (4) any other applicable sanctions lists, or (5) any person 50 per cent or more owned, directly or indirectly, individually or in the aggregate by a person(s) identified in (1) through (4).